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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/233,394 01/19/99 KNOX

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EXAMINER

ISABELLA, D

ART UNIT

PAPER NUMBER

3738

DATE MAILED:

02/15/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/233,394**

Applicant(s)

**Knox**

Examiner  
**ISABELLA, DAVID J.**

Group Art Unit  
**3738**



☒ Responsive to communication(s) filed on Mar 15, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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*Claim Rejections - 35 USC § 112*

1. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 3, before "shaft" insert --elongated--;  
line 5, before "said shaft" insert --one end of--;  
line 6, before "bight" insert --first--; delete "as manufactured"  
line 7, delete "being"; and change "opened" to --deformed--;  
line 9 before "closing" delete "of" and insert therefor --upon application of heat--;  
lines 10 and 11, delete "in response to heat";  
line 12, before "said shaft" insert --an opposite end--.

Claim 2, line 4, delete "its".

Claim 3, lines 2-3, delete "elongate and".

Claim 4, change "piston" to --an enlarged cylindrical body--.

Claim 5, change "piston" to --cylindrical body--.

Claim 7, line 3, change "another" to --second--; and delete "of like construction to said first-mentioned bight but";  
line 5, delete "-mentioned".

Claim 8, line 4, before "bight" insert --first--.

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Claims 9 and 10 are indefinite for failing to further limit the elements of the prosthesis.

Applicant is advised to reword the claim, for example, such that the bight is configured to attach to an incus and the cylindrical body is configured to engage the oval window.


***Allowable Subject Matter***

2. Claims 1-10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Isabella whose telephone number is (703) 308-3060. The Examiner's Supervisor, Mickey Yu, may be reached at (703) 308-2672. The group receptionist may be reached at (703) 308-0858.

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Should Applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 308-3590. Should Applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



**DAVID LISABELLA**  
**PRIMARY EXAMINER**  
**GROUP 3300**

dji

February 11, 2000